

**SUBJECT:** Authorizing TNRCC to implement vehicle emissions programs

**COMMITTEE:** Environmental Regulation — committee substitute recommended

**VOTE:** 5 ayes — Bonnen, Kuempel, Uher, Dukes, Geren  
0 nays  
4 absent — Chisum, Bosse, Howard, Zbranek

**WITNESSES:** For — Ramón Alvarez, Environmental Defense; Bill Bandy, Lone Star Lubrication and Texas State Inspection Association; Charissa E. Barnes, Official Inspection Station dba OIS Investments and Texas State Inspection Association; George Beatty Jr., Greater Houston Partnership; Pamela M. Berger, City of Houston; James Lee, Parsons Advanced Technology; Fred Manhart, Association of Electric Companies of Texas; Mary Miksa, Texas Association of Business and Chambers of Commerce; Cindy Morphew, Texas Oil and Gas Association; Elizabeth Moyer, American Electronics Association; Jim Quinten, Automotive Wholesalers of Texas; Chris Stock, Keating Technologies; Al Thompson; Joe Youngblood  
  
Against — Tom Blanton, Texas Automobile Dealers Association  
  
On — Hazel Barbour, Texas Natural Resource Conservation Commission; Ed Martin, Texas State Inspection Association; Ricky Smith, Texas Department of Public Safety

**DIGEST:** CSHB 2134 would authorize the Texas Natural Resource Conservation Commission (TNRCC) to implement vehicle emissions inspection and maintenance (I&M) programs as requested by counties. It also would require TNRCC, the Texas Department of Transportation, and the Public Safety Commission to establish low-income vehicle repair assistance, retrofit, and accelerated retirement programs and to authorize counties to implement those programs.

**Vehicle emissions I&M requirements.** The bill would require TNRCC to adopt I&M requirements for a county upon the request of the county and its

most populous city. Current law authorizes TNRCC to do so upon request but does not require it.

An inspection station operator could charge an additional fee of up to \$10 if the hourly labor rate warranted an additional charge for conducting combined safety and emissions inspection in a county with I&M requirements. The operator would have to display a sign explaining the total fee, the portion assessed by the state and the portion retained by the station, and the hourly labor rate.

TNRCC would have to use part of any I&M fees to fund low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs and to distribute funding to counties in proportion to the I&M fees collected from those counties. TNRCC could set fees at the same rate for every vehicle in a region and could set different fees for different regions.

The Department of Public Safety (DPS) could waive I&M requirements for a vehicle on which at least \$100 had been spent to bring it into compliance, that had been driven less than 5,000 miles since its last safety inspection, and that was expected to be driven less than 5,000 miles before the next required inspection and for which parts were not readily available. The program would not apply to a vehicle that was registered but not operated primarily in a county with I&M requirements, nor to a vehicle registered in a rural county with fewer than 70,000 vehicles.

TNRCC could contract with private entities to provide testing services and training to inspection stations. TNRCC and DPS could adopt joint rules to ensure that a stable private market existed for providing emissions testing to the public in a county with I&M requirements.

**Low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs.** TNRCC could provide funding for these programs with money from I&M fees. Only 10 percent of the funding could be used for administrative purposes. A local program could not apply to classic or exhibition vehicles not used for daily transportation.

A low-income and accelerated vehicle retirement program would have to provide monetary or other assistance for repairs related to bringing a vehicle

into compliance with emissions requirements; a replacement vehicle, if the cost of bringing a vehicle into compliance was uneconomical; and installing retrofit equipment on a vehicle that had failed an emissions test. TNRCC and DPS would have to establish standards and specifications for retrofit equipment used in the program.

A vehicle would not be eligible for the program unless its registration was current and the vehicle had been in the county for at least two years before the program, unless the vehicle met the eligibility criteria, and unless any repairs were done by an entity recognized by DPS. Fleet vehicles would not be eligible for the program.

TNRCC would have to adopt guidelines for the program, recommending a minimum and maximum amount for repair assistance and toward the purchase price of a replacement vehicle, criteria for determining vehicle eligibility, safeguards for preventing fraud, and procedures for determining the amount of assistance.

The commissioners court of a county could appoint an advisory panel to advise the county on operation of the program.

**Emissions reduction credits.** TNRCC would have to adopt rules assigning an emissions reduction credit to a private, commercial, or business entity that purchased a qualified vehicle under a low-income or accelerated vehicle retirement program. The rules would have to allow:

- ! transferring an assigned emissions reduction credit;
- ! using the credit against state or federal emissions requirements for a facility;
- ! assigning a percentage of credit for retiring a fleet vehicle; and
- ! other actions to benefit accelerated vehicle retirement programs.

**Disposing of retired vehicles.** A vehicle retired under an accelerated vehicle retirement program would have to be destroyed, recycled, dismantled and sold as parts, or else repaired and brought into compliance for use as a replacement vehicle. No more than 10 percent of retired vehicles could be used as replacement vehicles. A retired vehicle could not be sold or reused in its entirety in Texas or another state unless the vehicle was identified as a

collectible vehicle and was removed from the state, removed from a county with I&M requirements, or stored for future restoration.

The sale of a vehicle in an accelerated vehicle retirement program with intent to defraud would be a third-degree felony offense, punishable by two to 10 years in prison and an optional fine of up to \$10,000.

**Incentives.** TNRCC, DPS, and the Public Safety Commission could establish incentives for counties to implement voluntary I&M programs and low-income and accelerated vehicle retirement programs and to give preference to those counties in any clean-air grant program.

**Title and registration.** A county assessor-collector could not issue a title receipt or register a vehicle subject to I&M requirements unless the vehicle had passed the required inspection.

**Emissions system offense.** A person would commit a misdemeanor offense punishable by a fine of up to \$350 if — except when downshifting to maintain reasonable momentum — the person knowingly operated a vehicle that emitted visible smoke for at least 10 seconds or smoke that lingered for at least 10 seconds before fully dissipating. If a person previously had been convicted of such an offense, the fine would be between \$200 and \$1,000 for each violation. The bill would eliminate current provisions relating to a visible-smoke offense.

**Emissions test on resale.** A vehicle would not be eligible for a title receipt, certificate of title, or registration in a county with I&M requirements unless the vehicle had passed an emissions inspection. This requirement would apply only to a vehicle for which the most recent certificate of title or registration was issued in a county without I&M requirements and that changed ownership in a retail sale.

**Exemption from emissions inspection requirements.** The owner of a vehicle that was to be registered in a county with I&M requirements and that would be used in the county for less than 60 days could obtain an exemption from test requirements.

**Administrative penalty.** DPS could impose an administrative penalty on a

person who knowingly violated inspection requirements. Individual penalties could not exceed \$1,000, and the aggregate penalty could not exceed \$10,000. Each day a violation occurred would be a separate penalty. Penalty proceeds would have to be deposited in a special account in general revenue for use by DPS.

TNRCC would have to seek a binding commitment from the U.S. Environmental Protection Agency that any county that was not required by law to participate but that voluntarily participated in an I&M program and a low-income and accelerated vehicle retirement program would receive credit for taking steps to reduce air pollution if the county later was found to exceed federal clean-air standards, and that the county would not be penalized for having voluntarily created the programs.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

CSHB 2134 would help to reduce air pollution and bring Texas into compliance with federal air-quality standards. Several metropolitan areas in Texas have been declared nonattainment areas under federal regulation. TNRCC has promulgated rules for vehicle emissions testing to help bring areas such as the Houston-Galveston nonattainment area into compliance with federal standards. This bill would give TNRCC and DPS greater flexibility to administer emissions testing and reduction programs.

The bill would create programs to repair or retrofit vehicles of low-income owners to bring them into compliance with emissions standards or to replace their vehicles. Low-income people often depend on their vehicles for daily transportation to work but cannot afford to make emissions improvements. The program would help to bring these cars into compliance or to accelerate their retirement in order to reduce their contribution to air pollution.

CSHB 2134 also would establish incentives to encourage counties to implement voluntary I&M programs and would authorize emissions reduction credits for owners participating in low-income or accelerated vehicle retirement programs. The bill also would provide a fine for the owner of a vehicle that emitted visible smoke.

The bill would not burden inspection station owners or operators, who could pass along their increased labor costs through an additional fee of up to \$10. The station would have to post a sign that explained the fee and why it was being charged.

**OPPONENTS  
SAY:**

CASHB 2134 would burden vehicle inspection stations in counties with I&M requirements by forcing them to increase prices to cover increased labor costs for complying with TNRCC emissions requirements. Higher prices could cause vehicle owners to forgo necessary inspections or use illegal means to obtain inspection stickers. Responsible station owners would have to squeeze their profit margins to compete with lower-priced illicit operations and with stations in nearby counties that did not have I&M requirements.

**NOTES:**

The committee substitute added the provision allowing a station owner to charge an additional fee of up to \$10 for inspections in counties with I&M requirements.

The bill's fiscal note assumes that costs for implementing the bill, including for three additional employees at TNRCC, would be offset by increased vehicle emissions inspection fees.